

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RONALDO AYALA,	)	No. C 15-3037 RMW (PR)
	)	
Plaintiff,	)	ORDER DIRECTING PLAINTIFF
	)	TO PROVIDE COURT WITH
v.	)	MORE INFORMATION FOR
	)	DEFENDANT T. PETERSON
DR. J. GRANT, et al.,	)	
	)	
Defendants.	)	
_____	)	

Plaintiff, a California state prisoner proceeding pro se, filed a civil action in state court. Defendants filed a notice of removal to federal court because plaintiff's complaint indicated that he was filing a lawsuit pursuant to 42 U.S.C. § 1983. Liberally construing plaintiff's complaint, the court found cognizable claims of excessive force, retaliation, and deliberate indifference to serious medical needs. On November 6, 2016, a notice of lawsuit and request for waiver of service of summons was mailed to defendant T. Peterson at San Quentin State Prison. On December 10, 2015, the documents were returned with a notation that the defendant was no longer worked at the institution. (Docket No. 7.) Accordingly, defendant T. Peterson has not been served.<sup>1</sup>

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<sup>1</sup> Defendant T. Amrhein-Conama has not returned an executed waiver of summons however no information has been provided to the court indicating that the documents sent to him were undeliverable.

1 Although a plaintiff who is incarcerated and proceeding in forma pauperis may rely on  
2 service by the Marshal, such plaintiff “may not remain silent and do nothing to effectuate such  
3 service”; rather, “[a]t a minimum, a plaintiff should request service upon the appropriate  
4 defendant and attempt to remedy any apparent defects of which [he] has knowledge.” Rochon v.  
5 Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). Here, plaintiff’s complaint has been pending for  
6 over 90 days, and thus, absent a showing of “good cause,” is subject to dismissal without  
7 prejudice. See Fed. R. Civ. P. 4(m).

8 Because plaintiff has not provided sufficient information to allow the Marshal to locate  
9 and serve defendant T. Peterson, plaintiff must remedy the situation or face dismissal of his  
10 claims against this defendant without prejudice. See Walker v. Sumner, 14 F.3d 1415, 1421-22  
11 (9th Cir. 1994) (holding prisoner failed to show cause why prison official should not be  
12 dismissed under Rule 4(m) where prisoner failed to show he had provided Marshal with  
13 sufficient information to effectuate service). Accordingly, plaintiff must provide the court with  
14 an accurate and current location for defendant T. Peterson such that the Marshal is able to effect  
15 service.

## 16 CONCLUSION


17 1. Plaintiff shall provide the court with an accurate and current location for  
18 defendant T. Peterson within **thirty (30) days** of the date this order is filed, or plaintiff’s claims  
19 against this defendant will be dismissed without prejudice pursuant to Rule 4(m) of the Federal  
20 Rules of Civil Procedure.

21 2. In the interest of justice, the court requests that the Litigation Coordinator at San  
22 Quentin State Prison (“SQSP”) determine if defendant T. Peterson is still employed with the  
23 California Department of Corrections and Rehabilitation (“CDCR”), and if so, to provide the  
24 court with a current employment address for the defendant. If he is a former employee but no  
25 longer employed with CDCR, the Litigation Coordinator is requested to provide a forwarding  
26 address, or notice that such information is not available.

27 3. The Clerk is directed to send a copy of this order to plaintiff and the Litigation  
28 Coordinator at SQSP.

1 IT IS SO ORDERED.

2 DATED: 1/15/2016

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4 RONALD M. WHYTE  
5 United States District Judge  
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